



Reprinted
February 28, 2001

HOUSE BILL No. 1901

DIGEST OF HB 1901 (Updated February 27, 2001 11:32 AM - DI 69)

Citations Affected: IC 13-11; IC 13-20; noncode.

Synopsis: Mercury and mercury products. Prohibits the sale and distribution of mercury-added novelties after July 1, 2003. Provides that a person may sell or supply a mercury fever thermometer to an individual after July 1, 2003, only if the individual has a prescription for the thermometer. Provides exceptions for novelties and thermometers that: (1) only contain mercury in button cell batteries; or (2) are antiques. Restricts a public or nonpublic school from using or purchasing elemental mercury, mercury compounds, or mercury-added instructional equipment and materials after July 1, 2003. Provides that a person may sell or provide elemental mercury to another person after July 1, 2003, only if the person meets certain conditions. Requires manufacturers of thermostats that contain mercury to provide incentives for and sufficient information to purchasers and consumers of the thermostats after July 1, 2003, to ensure that the mercury in the thermostats is reused or recycled. Requires the environmental quality service council to review various issues concerning mercury before January 1, 2004.

Effective: July 1, 2001.

**Avery, Brown C, Weinzapfel,
Young D**

January 17, 2001, read first time and referred to Committee on Environmental Affairs.
February 21, 2001, amended, reported — Do Pass.
February 27, 2001, read second time, amended, ordered engrossed.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1901

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-126 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 126. (a)
3 "Manufacturer", for purposes of IC 13-20-16, means a person who is
4 engaged in the business of making lead acid batteries:
5 (1) in Indiana; or
6 (2) for sale in Indiana.
7 (b) "Manufacturer", for purposes of IC 13-27.5, means a
8 manufacturer in Indiana operating under standard industrial
9 classification codes twenty (20) through thirty-nine (39) in the Standard
10 Industrial Classification Manual of the United States Office of
11 Management and Budget.
12 (c) "Manufacturer", for purposes of IC 13-20-17.5, means any
13 individual, corporation, limited liability company, partnership,
14 trust, estate, or unincorporated association that:
15 (1) produces in the United States a mercury-added product
16 that does not consist of multiple components produced by
17 separate entities;

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- (2) is the last entity to produce or assemble in the United States a mercury-added product that consists of multiple components produced by separate entities; or
- (3) domestically distributes a mercury-added product produced in a foreign country.

SECTION 2. IC 13-11-2-128 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 128. "Material safety data sheet", for purposes of IC 13-20-17.5 and IC 13-25-2, means the data sheet developed under 29 CFR 1910.1200(g) has the meaning set forth in 42 U.S.C. 11049.

SECTION 3. IC 13-11-2-128.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 128.5. "Mercury-added novelty", for purposes of IC 13-20-17.5, means a mercury-added product intended mainly for personal or household enjoyment or adornment, including:

- (1) items intended for use as practical jokes;
- (2) figurines;
- (3) adornments;
- (4) toys;
- (5) games;
- (6) cards;
- (7) ornaments;
- (8) yard statues and figurines;
- (9) candles;
- (10) jewelry;
- (11) holiday decorations; and
- (12) footwear and other items of apparel.

SECTION 4. IC 13-11-2-128.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 128.7. "Mercury fever thermometer", for purposes of IC 13-20-17.5, means a mercury-added product that:

- (1) is a thermometer or another medical or scientific instrument; and
- (2) is used for measuring body temperature.

SECTION 5. IC 13-11-2-142.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 142.5. "Non-public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-10.1-1-3.

SECTION 6. IC 13-11-2-158 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 158. (a) "Person", for purposes of:

- (1) IC 13-21;
- (2) air pollution control laws;
- (3) water pollution control laws; and
- (4) environmental management laws, except as provided in subsections (c), (d), (e), and (h);

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a municipal corporation, a city, a school city, a town, a school town, a school district, a school corporation, a county, any consolidated unit of government, political subdivision, state agency, a contractor, or any other legal entity.

(b) "Person", for purposes of:

- (1) IC 13-18-10; and
- (2) IC 13-20-17;

means an individual, a partnership, a copartnership, a firm, a company, a corporation, an association, a joint stock company, a trust, an estate, a political subdivision, a state agency, or other legal entity, or their legal representative, agent, or assigns.

(c) "Person", for purposes of:

- (1) IC 13-20-13;
- (2) IC 13-20-14;
- (3) IC 13-20-16; and
- (4) IC 13-25-6;

means an individual, a corporation, a limited liability company, a partnership, or an unincorporated association.

(d) "Person", for purposes of IC 13-23, has the meaning set forth in subsection (a). The term includes a consortium, a joint venture, a commercial entity, and the United States government.

(e) "Person", for purposes of **IC 13-20-17.5** and IC 13-25-3, means an individual, a corporation, a limited liability company, a partnership, a trust, an estate, or an unincorporated association.

(f) "Person", for purposes of IC 13-26, means an individual, a firm, a partnership, an association, a limited liability company, or a corporation other than an eligible entity.

(g) "Person", for purposes of IC 13-29-1, means any individual, corporation, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, business enterprise, or legal entity.

(h) "Person", for purposes of:

- (1) IC 13-30-6-6;



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(2) IC 13-30-6-7; and
 (3) IC 13-30-8-1;
 has the meaning set forth in IC 35-41-1.

SECTION 7. IC 13-11-2-176.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 176.5. "Public school", for purposes of IC 13-20-17.5, has the meaning set forth in IC 20-10.1-1-2.**

SECTION 8. IC 13-11-2-256 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 256. "Wastewater", for purposes of IC 13-18-12 **and IC 13-20-17.5**, means the following:

- (1) Human excreta, water, scum, sludge, and sewage from sewage disposal systems, retained contents of wastewater holding tanks, or portable sanitary units.
- (2) Grease, fats, and retained wastes from grease traps or interceptors.
- (3) Wastes carried in liquid from ordinary living processes.
- (4) Incidental or accidental seepage from sewage disposal systems.

SECTION 9. IC 13-20-17.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 17.5. Mercury and Mercury Products

Sec. 1. (a) This section does not apply to an antique mercury-added novelty or a product intended mainly for personal or household enjoyment or adornment if:

- (1) the product uses a mercury-added button cell battery; and
- (2) the only mercury contained in the product is found in the mercury-added button cell battery.

(b) After July 1, 2003, a mercury-added novelty may not be:

(1) offered for:

- (A) final sale; or**
- (B) use; or**

(2) distributed for promotional purposes;

in Indiana if the offerer or distributor knows or has reason to know that the novelty contains mercury.

(c) Manufacturers that produce or distribute mercury-added novelties shall notify retailers of the novelties:

- (1) of the provisions of this section; and**
- (2) how to dispose of remaining inventory properly.**

Sec. 2. (a) This section does not apply to an antique mercury thermometer or a thermometer if:



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(1) the thermometer uses a mercury-added button cell battery; and

(2) the only mercury contained in the thermometer is found in the mercury-added button cell battery.

(b) After July 1, 2003, a person may sell or supply a mercury fever thermometer to an individual only if the individual has a prescription for the thermometer.

(c) A manufacturer of mercury fever thermometers shall supply, with each mercury fever thermometer sold through prescription, clear instructions on:

(1) the handling of the thermometer necessary to avoid breakage; and

(2) proper cleanup if breakage occurs.

Sec. 3. After July 1, 2003, a public school or nonpublic school may not use or purchase for use in a primary or secondary classroom:

(1) elemental mercury;

(2) mercury compounds; or

(3) mercury-added instructional equipment and materials; except measuring devices and thermometers for which no adequate substitute exists for use in laboratories.

Sec. 4. After July 1, 2003, a person may sell or provide elemental mercury to another person in this state only if:

(1) the person selling or providing the elemental mercury provides a material safety data sheet with the elemental mercury; and

(2) the person selling or providing the elemental mercury requires the purchaser or recipient to sign a statement that the purchaser or recipient:

(A) will use the mercury only:

(i) for medical purposes;

(ii) in dental amalgam dispose-caps;

(iii) for research; or

(iv) for manufacturing purposes;

(B) understands that mercury is toxic;

(C) will store and use the mercury appropriately so that no individual is exposed to the mercury; and

(D) will not:

(i) place or cause to be placed; or

(ii) allow anyone under the control of the purchaser or recipient to place or cause to be placed;

the mercury in solid waste for disposal or in a wastewater

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disposal system.

Sec. 5. (a) After July 1, 2003, a:

(1) manufacturer of thermostats that contain mercury added during manufacture; or

(2) manufacturer of thermostats that:

(A) do not contain mercury added during manufacture; and

(B) might replace thermostats that contain mercury added during manufacture;

shall provide incentives for and sufficient information to purchasers and consumers of the thermostats to encourage the purchasers or consumers to ensure that mercury in thermostats being removed from service is reused or recycled.

(b) Manufacturer collection programs conducted in accordance with universal waste rules meet the requirements of this section.

Sec. 6. The department shall implement an education program to provide information to the public concerning collection programs available to the public for products that contain mercury.

SECTION 10. [EFFECTIVE JULY 1, 2001] (a) Before January 1, 2004, the environmental quality service council shall:

(1) review issues relating to the labeling and disposal of products that contain mercury;

(2) review issues relating to the notifications, restrictions on sales, and limitations on the use of elemental mercury under IC 13-20-17.5, as added by this act; and

(3) make legislative recommendations based on the reviews conducted under this SECTION, if appropriate.

(b) This SECTION expires January 1, 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1901, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 11 through 15.

Page 2, delete lines 34 through 42.

Page 3, delete lines 1 through 4.

Page 4, delete lines 27 through 33.

Page 5, line 6, delete "Mercury-Added" and insert "**Mercury and Mercury**".

Page 5, delete lines 7 through 42.

Delete pages 6 through 7.

Page 8, delete lines 1 through 4.

Page 8, line 5, delete "Sec. 7." and insert "**Sec. 1.**".

Page 8, line 17, delete "Sec. 8." and insert "**Sec. 2.**".

Page 8, line 26, delete "Sec. 9." and insert "**Sec. 3.**".

Page 8, line 34, delete "Sec. 10." and insert "**Sec. 4.**".

Page 9, line 14, delete "Sec. 11." and insert "**Sec. 5.**".

Page 9, line 15, delete "are mercury-added" and insert "**contain mercury added during manufacture**".

Page 9, line 16, delete "products".

Page 9, line 17, delete "are not mercury-added" and insert ":

**(A) do not contain mercury added during manufacture;
and**

(B) might replace thermostats that contain mercury added during manufacture;".

Page 9, delete lines 18 through 19.

Page 9, delete lines 26 through 31.

Page 9, line 32, delete "Sec. 13." and insert "**Sec. 6.**".

Page 9, line 33, delete "about:" and insert "**collection programs available to the public for products that contain mercury.**".

Page 9, delete lines 34 through 42.

Page 10, delete lines 1 through 26.

Page 10, line 29, after "of" insert "**products that contain mercury;**".

Page 10, delete lines 30 through 31.

Page 10, line 34, after "act;" insert "**and**".

Page 10, delete lines 35 through 41.

Page 10, line 42, delete "(4)" and insert "**(3)**".

Page 11, delete lines 3 through 42.

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Delete pages 12 through 13.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1901 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1901 be amended to read as follows:

Page 4, line 24, after "(a)" insert "**This section does not apply to an antique mercury-added novelty.**

(b)".

Page 4, line 32, delete "(b)" and insert "(c)".

Page 4, line 36, after "(a)" insert "**This section does not apply to an antique mercury fever thermometer.**

(b)".

Page 4, line 39, delete "(b)" and insert "(c)".

Page 6, line 6, after "public" insert "**concerning**".

(Reference is to HB 1901 as printed February 22, 2001.)

AVERY

HOUSE MOTION

Mr. Speaker: I move that House Bill 1901 be amended to read as follows:

Page 4, line 24, after "(a)" insert "**This section does not apply to a product intended mainly for personal or household enjoyment or adornment if:**

- (1) the product uses a mercury-added button cell battery; and**
- (2) the only mercury contained in the product is found in the mercury-added button cell battery.**

(b)".

Page 4, line 32, delete "(b)" and insert "(c)".

Page 4, line 36, after "(a)" insert "**This section does not apply to a thermometer if:**

- (1) the thermometer uses a mercury-added button cell battery; and**
- (2) the only mercury contained in the thermometer is found in the mercury-added button cell battery.**

(b)".

Page 4, line 39, delete "(b)" and insert "(c)".

Page 6, line 6, after "public" insert "**concerning**".

(Reference is to HB 1901 as printed February 22, 2001.)

AVERY

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